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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,365	02/18/2004	Larry V. Dalrymple	104-27881 (DIV A)	2775

7590 07/22/2005

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EXAMINER

NEUDER, WILLIAM P

ART UNIT	PAPER NUMBER
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3672

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/781,365

Applicant(s)

DALRYMPLE ET AL.

Examiner

William P. Neuder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/25/04 (preliminary amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-21 and 24-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-15, 18, 20, 21, 24-26 and 33 is/are rejected.
- 7) ☒ Claim(s) 16, 17, 19, 27-32 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/18/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 12-14, 18, 20, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkenloh et al 4,104,481 in view of Sizer et al 5191173.

Wilkenloh discloses a method of manufacturing an electric cable. An elastomeric jacket 27 is extruded over an insulated conductor 22. Metal tubing 21 is threaded onto the assembly and then swaged to retain the conductor and tubing. Wilkenloh is considered to disclose all of the claimed features except for placing metal tubing 21 onto the cable by rolling and then welding the seam formed. Sizer teaches that it is known to place a metal tubing around an electrical cable by rolling the tubing and then welding the seam. It would have been considered obvious to place the tubing 21 of Wilkenloh by rolling and welding as taught by Sizer since rolling and welding is considered to be the equivalent of threading. As to claims 13,14,24 and 25, the initial tubing diameter is at least .030 inches greater than the outer diameter of the jacket prior to swaging. As to claim 18, the electric cable manufactures could be used as a heater cable. As to claim 20, the normal size of electrical cables used in wells is less than 1 inch.

Claims 15 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkenloh et al in view of Sizer et al as applied to claims 12-14-18,20,24 and 25 above, and further in view of Neuroth 4,780,574.

The above-described combination is considered to disclose all of the claimed features except for the use of ethylenepropylenediene as the material for use as the jacket. Neuroth teaches forming a jacket of an electric cable from ethylenepropylenediene. It would have been considered obvious to form the jacket of Wilkenloh from ethylenepropylenediene since Neuroth teaches that

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ethylenepropylenediene is a common material to form jackets of electric cables from and substitution of one known material for another is not seen to be unobvious.

Claims 21 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkenloh et al in view of Sizer et al and Neuroth et al 5,782,301.

Wilkenloh in view of Sizer (described above) is considered to disclose all of the claimed features except for use of the manufactured electrical cable as a heater cable in a well. Neuroth et al teaches that it is known to use electric cables as heating cables in a well. It would have been considered obvious to use the electric cable produced by the method of Wilkenloh as modified by Sizer as a heater cable in a well in view of Neuroth's teaching that electric cables are used as heating cables in wells and therefore, any electric cable could be used as a wellbore heating cable.

Allowable Subject Matter


Claims 16,17,19,27-32 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Neuder whose telephone number is 571-272-7032. The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


William P Neuder
Primary Examiner
Art Unit 3672

W.P.N.